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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,730	03/25/2004	Mark F. Cotton	12587-059001/01553-00/US	5641
26212	7590	10/16/2007	EXAMINER	
FISH & RICHARDSON P.C.			HAQ, NAEEM U	
P.O. BOX 1022			ART UNIT	
MINNEAPOLIS, MN 55440-1022			PAPER NUMBER	
			3625	
			MAIL DATE	
			DELIVERY MODE	
			10/16/2007	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/808,730

Applicant(s)

COTTON ET AL.

Examiner

Naeem Haq

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/26/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This action is in response to the Applicants' amendment filed on July 26, 2007. Claims 22-31 have been cancelled. New claim 32 has been added. Claims 1-21 and 32 are pending and will be considered for examination.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-21 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bezos et al. (US 6,029,141) ("Bezos") in view of Walker et al. (US 6,041,308) ("Walker") and further in view of Wilmes et al. (US 2002/0116302 A1) ("Wilmes").

Bezos teaches a method of managing a multi-vendor online sales channel, the method comprising: receiving from each of a plurality of sellers information describing one or more items for sale (col. 2, lines 3-5; col. 7, lines 21-30); presenting the items for sale to potential buyers through a unified storefront on an online marketplace, and presenting a consistent interface to the potential buyers (col. 2, lines 48-65; col. 13, lines 10-15); receiving through the unified storefront an order from a buyer to purchase an item (col. 13, lines 16-22); and taking flash title to the purchased item prior to fulfilling the buyer's order. The Applicants' specification discloses that the term "flash title" refers

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to "...a legal title that the connection provider assumes for an item from the point of sale to the time the order is fulfilled (e.g., when the item is delivered to the buyer)." (See specification paragraph [0043]). Bezos teaches that the unified storefront owns the products for sale (col. 6, lines 31-35: "*The associate's Web site 100 is the site of an entity that has registered with the merchant, via the online registration process, to market a subset of the merchant's goods in return for compensation (preferably a performance-based commission).*") Moreover, Bezos teaches that merchant (i.e. unified storefront) is responsible for shipping the products (col. 6, lines 41-44). Thus the merchant has "flash title" to the purchased item prior to fulfilling the buyer's order because it has ownership of the products from the time of order to the time of delivery.

Bezos does not teach masking identities of the plurality of sellers. However, Walker teaches a system and method for conditional purchase offers that keeps the seller's identities anonymous (col. 6, lines 36-42). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Walker into the invention of Bezos. One of ordinary skill in the art would have been motivated to do so in order to enable sellers to participate in the CPO process without fear of undercutting their published price structures and losing their regular customer base, as taught by Walker.

The cited prior art does not teach determining information for an amount of sales tax based on a residence or situs of an operator of the unified storefront. However, Wilmes teaches that the sales tax of a transaction over a network can be based on a variety of locations such as the location of the buyer, location of the seller, location of

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the ISP, or any combination thereof ([0047] and [0061]). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to collect a tax based on the location of the seller (i.e. merchant) in the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to collect taxes from all the appropriate entities in a transaction.

Finally, Bezos teaches collecting payment from the buyer (col. 6, lines 41-44) and reporting statistics relating to the buyer's purchase of the item to a merchant that offered the item for sale on the unified storefront (col. 16, lines 10-19). Bezos does not teach that the payment includes sales tax. However, Wilmes teaches that the sales tax of a transaction over a network can be based on a variety of locations such as the location of the buyer, location of the seller, location of the ISP, or any combination thereof ([0047] and [0061]). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to collect a tax based on the location of the seller (i.e. merchant) in the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to collect taxes from all the appropriate entities in a transaction.

Response to Arguments

Applicants' arguments have been considered but are moot in view of the new ground(s) of rejection.

The Applicants have argued that Amazon's Marketplace does not determine taxes for buyer or sellers, and they have cited Amazon's "Participation Agreement" to

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support their position (see "Remarks" page 7). The examiner respectfully disagrees and notes that the "Participation Agreement" cited by the Applicants is in regard to Amazon's auction and listing service where sellers list their products and deal directly with buyers (see complete "Participation Agreement"). The patent relied on by the examiner (i.e. US 6,029,141 to Bezos et al.) is not directed to Amazon's auction and listing service but rather to Amazon's Affiliate referral service. For this service Amazon has a separate "Operating Agreement" (see complete "Operating Agreement"). The Operating Agreement makes it clear that affiliate fees are calculated after taxes are stated and charged to the customer (see page 6). For this reason, the examiner maintains the art rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 12, 2007

A handwritten signature in black ink, consisting of a large, stylized 'N' followed by a circular flourish.

NAEEM HAQ
PRIMARY EXAMINER